

To: Strauss, Alexis[Strauss.Alexis@epa.gov]
Cc: Johnson, Kathleen[Johnson.Kathleen@epa.gov]
From: Diamond, Jane
Sent: Fri 3/6/2015 4:42:54 PM
Subject: BDCP update for Administrator

Alexis, here's a proposed summary from me and Kathleen (with ORC input) on developments on BDCP for Jared's weekender to the Administrator:

My senior staff had a telephone call on March 5 with the State of California and other federal agencies about the Bay Delta Conservation Plan (BDCP), in which the State outlined its "Change in Direction" for the BDCP. In short, the proposal is to substantially scale back the project, eliminating the Habitat Conservation Plan (HCP) aspect of this project, and instead pursuing a much more limited ESA Section 7 permit for the "twin Delta tunnels", as a stand-alone project primarily addressing water supply goals. This is a major shift in the approach from the past nine years, which had attempted to meet both ecosystem restoration and water supply goals in the face of the threat of ecosystem collapse in the Delta.

We understand that Governor Brown will be seeking meetings with you, Secretary Jewell and Secretary Pritzker of Commerce next week to discuss this substantial change in the project. The Governor may ask for EPA's buy-in for both the newly-defined project and for the creative approach they have outlined for NEPA compliance. However, while discussions among our agencies over the past six months have produced a common understanding of the additional information needed in the Supplemental DEIS that the lead agencies agreed to publish following EPA's August 2014 NEPA comments on the DEIS, we have not yet seen any text reflecting the planned changes. Further, given that we have only had oral discussion on this major change in the scale of the project and how it will be reflected in the NEPA Supplemental, and that we have only recently been given permission by the State to discuss the proposal with our staff experts, it would be premature to indicate we will not have concerns. We will commit to continue working cooperatively with the project proponents at all levels. We will provide you with additional talking points if your meeting with the Governor is confirmed.

On a related matter, I appreciate your acknowledgment of Region 9's cooperative efforts with the parties, and our concerns being shared by many stakeholders, in your responses to Rep. Calvert's BDCP comments at your budget hearing last week. The State continues to express its surprise upon receiving our August 2014 NEPA comments, despite very similar comments provided in 2013 by EPA and other agencies on the administrative DEIS, which were not addressed in the published DEIS.

Kathleen H. Johnson

Director, Enforcement Division

U.S. EPA - Region 9

75 Hawthorne Street ENF-1

San Francisco, CA 94015

415/972-3873

johnson.kathleen@epa.gov